

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE UNITED PLANT AND
PRODUCTION WORKERS LOCAL 175 BENEFITS
FUND,

Plaintiff,

-against-

ADOPTION ORDER
18-CV-4269(JS)(ARL)

MANA CONSTRUCTION GROUP, LTD., the Estate
of MARK FELDMAN, PATRYCIA FELDMAN,
as executor of the Estate of MARK FELDMAN,
NATALE F. CARDINO, and JOHN DOE COMPANY,

Defendants.

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APPEARANCES

For Plaintiff: Vito A. Palmieri, Esq.
Palmieri Castiglione & Associates, P.C.
250 Mineola Boulevard, 2nd Floor
Mineola, New York 11501

For Defendant No appearances.
Mana Construction
Group, Ltd.:

SEYBERT, District Judge:

Plaintiff Trustees of the United Plant and Production
Workers Local 175 Benefits Fund ("Plaintiff") commenced this
action against Mana Construction Group, Ltd. ("Defendant"), among
other defendants, pursuant to Sections 502 and 515 of the Employee
Retirement Income Security Act of 1974, 29 U.S.C. §§ 1132 and 1145,
as amended, and Section 301 of the Labor Management Relations Act
of 1947, 29 U.S.C. § 185. On March 25, 2020 Plaintiff filed a
motion for default judgment against Defendant (Mot., ECF No. 22),
and on October 23, 2020, this Court referred the motion to

Magistrate Judge Arlene R. Lindsay for a report and recommendation (Oct. 23, 2020 Elec. Order).

On February 24, 2021, Judge Lindsay issued a Report and Recommendation ("R&R") recommending that the Court deny Plaintiff's motion with leave to refile with proof of service within thirty days, because Plaintiff failed "to file an affidavit of service indicating that service of the motion for a default judgment ha[d] been made upon [Defendant]," as required by Local Rule 55.2(c). (R&R, ECF No. 42, at 1.); see also Local Rule 55.2(c) (requiring a motion for default judgment and supporting papers to be "mailed to the party against whom a default judgment is sought at the last known residence of such party (if an individual)").

The time to object has expired and no objections to the R&R have been filed. Upon careful review and consideration, the Court finds Judge Lindsay's R&R to be comprehensive, well-reasoned, and free of clear error. Accordingly, the Court ADOPTS the R&R (ECF No. 42) in its entirety and Plaintiff's motion for a default judgment (ECF No. 22) is DENIED as against Defendant.

Plaintiff is granted leave to refile its motion with proof of service within thirty days of this Adoption Order.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: March 22, 2021
Central Islip, New York